

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6952 of 1999

with

SPECIAL CIVIL APPLICATION NO. 6953 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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A M VANKAR

Versus

DEPUTY CONSERVATOR OF FORESTS

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Appearance:

MR MUKUL SINHA for Petitioner

MR. H.C. PATEL, ADDL. G.P. for Respondents

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 23/11/1999

COMMON ORAL JUDGEMENT

Mr. Mukul Sinha for the petitioners. Rule.  
Mr. H.C. Patel, Addl. G.P. and Mr. V.B. Gharania,  
AGP, waive service of rule for the respondents. In the  
facts of this, court finds that this case deserves to be  
finally heard right now. Since the two petitions are  
identical, both are decided by this common judgement. In  
response to the notice of these petitions issued by this

court, an affidavit in reply has been filed by the respondent No. 1 in each of these two petitions. No reply has been filed on behalf of respondent No. 2 in any of these two petitions. From the reply it appears that the appeals preferred by the petitioners on 16.4.1999 before the Conservator of Forests, Sabarkantha, Himatnagar have not been considered on its merits. The averments made in para 4 of this affidavit in reply filed by the Assistant Conservator of Forests in each of these two petitions are that in view of the total negligence and carelessness committed by the petitioners, the disciplinary authority suspended them on 25.2.1999 and the said order is proper and is in accordance with the provisions of the Discipline and Conduct Rules, 1971 (Appeal) of Gujarat State, according to respondent No. 1 and therefore the appeals of the petitioners were not considered by the appellate authority i.e. the Conservator of Forests, Gandhinagar Circle. This could hardly be a ground not to consider the points raised by the petitioners in the appeals on merits. The allegation against the petitioners is that they acted in a careless and negligent manner in not carrying the gun supplied to them for the purpose of protection of the forest and that they left the same in their quarters wherefrom it was stolen by somebody. The petitioners' case is that they had filed FIR with regard to this theft. On this ground the petitioners were placed under suspension on 25.2.1999 while they were working as beat guards in the Forest Department.

In the facts and circumstances of the case, it is directed that the respondent No. 2 i.e. the Conservator of Forests to whom the appeals dated 16.4.1999 were addressed will decide the appeals on merits after affording an opportunity of personal hearing to the petitioners and shall pass a speaking and reasoned order in accordance with law and in doing so the appellate authority shall not be influenced by anything which has been stated by the Assistant Conservator of Forests in the reply dated 21.10.1999. He will also communicate the same to the petitioners. The aforesaid exercise will be undertaken and the orders shall be passed within a period of two months from the date the copy of this order is served upon the Conservator of Forests. The Special Civil Applications are partly allowed and the rule is made absolute to the extent as above in each of these two petitions. No order as to costs.

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